

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 21, "Agricultural Lease Program," Iowa Administrative Code.

The adopted amendment increases the threshold for which negotiation, as opposed to competitive bidding, of a lease may be considered by the Department of Natural Resources. The Department derived this threshold using other competitive contracting laws and their \$5,000 thresholds as justification.

Adopting this amendment without notice is appropriate under Iowa Code section 17A.5(2)"b"(2) because the amendment will confer a benefit on the potential leaseholders by not requiring timely and potentially costly competitive bidding for smaller leases. The Department did propose this amendment under Notice of Intended Action, which was published in the Iowa Administrative Bulletin as **ARC 7533B** on January 28, 2009, but that Notice has expired. The final adopted amendment is unchanged from that published in the expired Notice of Intended Action. No comments regarding that amendment were received.

This amendment is intended to implement Iowa Code sections 461A.25, 456A.24(2), and 456A.24(5). This amendment shall become effective November 11, 2009.

The following amendment is adopted.

Amend subrule 21.4(7) as follows:

**21.4(7) *Negotiated leases.*** The land manager may negotiate a lease with any prospective operator, subject to approval of the director, in any of the following instances:

- a.* No bids are received.
- b.* Gross annual rent is ~~\$2500~~ \$5000 or less.
- c.* Where land acquired by the department is subject to an existing tenancy.
- d.* To synchronize the lease period of newly leased areas with other leases in the same management unit.
- e.* Where a proposed lease includes only land not accessible to equipment necessary to perform the required farming operations, except over privately owned land, provided the prospective operator possesses legal access to the leased land over said privately owned land.
- f.* Where the director authorizes a lease as a condition of a land purchase or trade.

[Filed Without Notice 9/15/09, effective 11/11/09]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/09.